81-127

No.

Office-Supreme Court, U.S.
FILED
JUL 20 1981
ALEXANDER L. STEVAS,
CLERK

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1980

GLENN G. GETZ, PETITIONER

V.

UNITED STATES OF AMERICA
and
C. HOWARD FARR, SPECIAL AGENT, I.R.S.

RESPONDENTS.

Petition for a writ of Certiorari to
The United States Court of Appeals for
The Fifth Circuit

GLENN G. GETZ, Petitioner
Attorney for Himself

Route 1, Box 608
Gordon, Georgia 31031

Phone: 912/ 986-6275

QUESTION PRESENTED

1. Is there a "Law of the Circuit" on mootness of an appeal in I.R.S. Bank Summons Enforcement Cases in the Fifth Circuit?

2. If there is no recognized or admitted "Law of the Circuit" on mootness, did the Peitioner actually enjoy due process of law (as enforced in other Circuits), when his Appeal was dismiss without Opinion for mootness?

3. Does total and indefinite suspension of any I.R.S. assessment, levy or collection activity constitute "abandoment of any valid civil purpose" as forbidden by this Court in U.S. v. LaSalle National Bank, 437 U.S. 298, during the pendency of an administrative agency criminal investigation?

4. Does the possession of all material probative elements necessary for criminal tax prosecution, coupled with a final

administrative determination of the "potential impact and/or deterrent effect a successful prosecution case will generate", constitute an "institutional commitment" to "recommend" and "refer" for prosecution and indicate sufficient cause to suspect bad faith on the part of the I.R.S., when their Administrative Summons issued after the fact?

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TABLE OF AUTHORITIES CITED

UNITED STATES CONSTITUTION:

Fifth Amendment

CASE AUTHORITIES:

Baldridge v. U.S., 406 F2d 536, (CA5 1969)

Barney v. I.R.S., 618 F2d 1268

FTC v. Gibson Products Corp., 569 F2d 900, (CA5 1978)

Muncaster v. C.I.R., T.C.Memo 1976-17, 35 T.C.M. 61, P.H. Memo T.C. §76017.

U.S. v. Carpenter, 425 F2d 264, (CA5 1970)

U.S. v. LaSalle National Bank, 437 U.S. 298

U.S. v. Porth, 426 F2d 419, (CA10 1970)

UNITED STATES CODE:

26 U.S.C. 6020(b), 6201, 6203, 6211 & 6212

26 U.S.C. 7203

26 U.S.C. 7402(b)

26 U.S.C. 7604(a), 7609

26 U.S.C. 7801

26 U.S.C. 7214

UNITED STATES CODE: continued

28 U.S.C. 1254(1)

INTERNAL REVENUE SERVICE DOCUMENTS:

I.R. Manual Supplement 9G-93

Form 1040 Individual Income Tax Return

Form 1099 Information Item

Form 3949

T.C. 914 Control Notice

In The

SUPREME COURT OF THE UNITED STATES

October Term 1980

No.

GLENN G. GETZ, PETITIONER,

v.

UNITED STATES OF AMERICA

and

C. HOWARD FARR, SPECIAL AGENT, I.R.S.

RESPONDENTS.

On Petition For A Writ of Certiorari To The United States Court of Appeals For Fifth Circuit

---

Petitioner requests that a writ of certiorari issue to review the Judgment of the United States Court of Appeals for the Fifth Circuit in this Case No. 80-7048.

CITATION TO OPINIONS BELOW

(Not Reported)

1. The Judgment of the Court of Appeals is set forth in Appendix "A" to this Petition (App. p-1, 2).

2. The Order of the Court of Appeals denying rehearing is set forth in Appendix "B" (App. p-3, 4).

3. The Order of the Court of Appeals carrying the "mootness" issue with the main Case is set forth in Appendix "C" (App. p-5, 6).

4. The Order and Judgment of the District Court enforcing the I.R.S. Summons is set forth in Appendix "D" (App. p-7, 8, 9, 10).

JURISDICTION

1. The Court of Appeals entered judgment on March 5, 1981 (Appendix "A", p-1).

2. The Court of Appeals denied rehearing on April 27, 1981 (Appendix "B", p-3).

3. The jursidiction of this Court is invoked pursuant to 28 U.S.C. 1254(1).

STATUTES INVOLVED

The Petitioner intervened as a matter of Statutory right(26 U.S.C. 7609) in a Bank Summons Enforcement proceeding in U.S. District Court brought pursuant to 26 U.S.C. 7402(b) and 7604(2).

The Fifth Amendment to the U. S. Constitution provides in pertinent part:

> . . . No person shall . . . be deprived of life, liberty or property without due process of law.

The Respondents had a duty to assess, levy or collect any valid civil liability according to 26 U.S.C. 7801, 6020(b), 6201, 6203, 6211 and 7214 which they failed and refused to do in favor of seeking criminal discovery by use of the Administrative Summon (26 U.S.C. 7602).

STATEMENT OF THE CASE

A.
NATURE OF THE CASE AND DISPOSITION BELOW

1. Petitioner Glenn G. Getz, was granted respondent/intervenor status by the

U. S. District Court for Macon, Georgia, in the I.R.S. Administrative Bank Summons Enforcement Case, originally styled:

> United States of America and C. Howard Farr, Special Agent, Internal Revenue Service,
>
> versus
>
> Citizens and Southern Bank of Milledgeville and its President, Jerry M. Mc Cree.

The District Court Judge, first, issued an Order granting Getz' "Request for Admissions" from the Petitioners, and, later, vacated his Order at the eleventh hour.

The District Judge quashed all Subpoenas issued on Getz' behalf, and, then, proceeded with a consolidated Hearing over Getz' objection. The "companion" Case was also a Bank Summons Enforcement Case wherein the Respondent-Intervenors, named Jim and Paulette Perkins, were represented by one Scott McClarty as Counsel.

After Getz renewed objection to the Court's failure and refusal to grant limited discovery and proof by either documents or

testimony, Getz adopted the arguments of counsel McClarty as his own - including I.R.M. Supplement 9G-93 and the full spectrum of the facts in an Offer of Proof made in open court as to what the testimony of the subpoened Witnesses would reveal.

2. The U. S. District Court for the Middle District of Georgia (Macon) ordered the Summons enforced (Appendix "D", p-7, 8, 9, 10). Notice of Appeal was filed.

3. A stay was denied by the District Court, and the Court of Appeals denied Mandamus to the District Court Judge to grant a stay pending appeal.

4. While the Case was on appeal, the Government moved to dismiss for mootness. The Court ordered the Motion to be carried with the Case (Appendix "C", p-5, 6).

> The Court requests supplemental briefs on the issues involved and whether or not there is presently a "Law of the Circuit" on mootness of an appeal in such cases.

5. In due time all Briefs were filed and the Case was orally argued in the Court

on its merits. No inquiry was made of either Party by the three Judges on the issue of mootness. Mr. Getz argued:

> I would like to touch briefly on the question of mootness. . . . Congress passed a law giving me the right to intervene in this Case and the right to have an appeal. I don't believe it was their intent to have that taken from me because of the action of a Third Party over whom I have absolutely no control. (See Appendix "E", p-11, at 13, Line 23)

6. The U. S. Court of Appeals for the Fifth Circuit dismissed the appeal for mootness on March 5, 1981, and remanded to the District Court with instructions to vacate the Enforcement Order (Appendix "A", p-1).

7. The U. S. Court of Appeals for the Fifth Circuit denied the Petition for Rehearing on April 27, 1981 (Appendix "B", p-3).

STATEMENT OF THE CASE

B.
STATEMENT OF THE FACTS

Internal Revenue Manual Supplement 9G-93 was laid before the U. S. District Court in its entirety as a factual Exhibit both as

to I.R.S. institutional policies and their action in the Bank intervention Cases. The Manual Supplement, coupled with Getz' Answer and Counterclaim and preTrial Demand for Admissions, taken along with the courtroom Offer of Proof, established, conclusively, as a matter of fact, that prior to the issuance of the Bank Summons in question, the I.R.S. Regional Service Center:

1. Had proof of gross income of $33,393.58, reported on an I.R.S. 1099 Form in their possession.

2. Had evidence that Getz filed an I.R.S. 1040 Form (Tax Return) containing no information from which a tax liability could be computed and claiming Constitutional Fifth Amendment protections - i.e. evidence no Return was filed - according to U. S. v. Porth, 426 F2d 419 (CA10 1970)):

> A taxpayer's return which does not contain any information relating to the taxpayer's income from which a tax can be computed is not a Return within the meaning of the Internal

Revenue Code or the Regulations adopted by the Commissioner.

3. Had the so called "Illegal Tax Protest" Return as evidence of "willful" failure to file an income tax return in violation of 26 U.S.C. 7203.

The I.R.S. Regional Chief C.I. B. made a final administrative determination that Getz was an "illegal tax protestor" and referred the File to the District Chief Criminal Investigation Division via I.R.S. Form 3949 to build a criminal case.

The District Chief, C.I.D., after "independent evaluation" confirmed Getz' "Illegal Tax Protestor" status; then, examined each of the three probative criminal prosecution elements and made a final administrative determination respecting the "potential impact or deterrent effect a successful prosecution [of Getz] would generate".

The District Chief, C.I.D. then

ordered indefinite suspension of any and all civil assessment, levy or tax collection activity by means of an I.R.S. "T.C. 914" control. These actions constitute an institutional determination to prosecute.

Each and every action named above was taken before the Special Agent was ever assigned to the Case and before the Administrative Summmons to investigate "Tax Liability" was issued on July 12, 1979. Criminal prosecution was (formally) "recommended" on or after August 25, 1980.

The Audit Division made no Return, assessed and levied no tax, laid no deficiency.

The Petitioner Getz has continuously contested delivery of the Bank Records to the I.R.S. at every stage of the proceeding as being in bad faith and for improper purposes.

REASONS FOR GRANTING THE WRIT

1. Law of the Circuit on Mootness:

Petitioner shows the Court that by its own tacit admission the Fifth Circuit Court of Appeals agrees that there is no "Law of the Circuit" on mootness in Bank Summons Enforcement Cases. (See Appendix "C", p-3)

The Issue was duly briefed by Petitioner Getz on order of the Court of Appeals as the Record will show. Petitioner argues here, that the Court's failure and refusal to answer by definitive Opinion the question which they, themselves, raised, constitutes sufficient authority for this Court to assert its supervisory powers - laying down the Law for the Fifth Circuit and all others. The Court may Judicially Notice the burdensome jamming of court machinery necessitated by requests for stays, contentions of mootness, and blurring of meritorious issues arising out of this aspect of Bank Summons Cases. The Court must fill

the vacuum of Case Authority on the subject of mootness in Bank Summons Enforcment Cases. The importance of these Cases is underscored by the Congressional Docket Precedence Mandate of 26 U.S.C. 7609(h)(2).

2. Due Process on Mootness:

Because there is no Case Law on mootness in the Fifth Circuit in point with the facts and circumstances as shown in Getz' Case, the Petitioner was actually deprived of due process by the Appeals Court. The Record will show that Getz' Supplementary Brief on mootness, submitted to the Appeals Court, clearly distinguished him from the facts in certain cited Fifth Circuit Cases,to wit:

Baldridge v. U.S., 406 F2d 526 (1970)

U.S. v. Carpenter, 425 F2d 264 (1970)

Getz showed that his was a live controversy as was the controversy typified by the case of FTC v. Gibson Products, 569 F2d 900 (CA5 1978).

Getz also distinguished his Case from that of Barney v. I.R.S, 618 F2d 1268

where no factual showing was made by the Intervenor to oppose enforcement.

Petitioner argued that the "Law of the Circuit" must be that a "third party record keeper" bank can moot its own case by delivery of records, but it cannot moot the case as to the respondent-intervenor, if the intervenor continually opposes delivery and does not moot the case himself by cooperation.

In view of the Government's failure to bear the burden of proof imposed by its own Motion to Dismiss (that the facts of Getz were in point with their cited Cases), Petitioner asserts it was error for the Appeals Court to dismiss for mootness, and the error was compunded by their so doing without any definitive Opinion on the subject.

3. Abandonment of any Valid Civil Purpose:

The case of U.S. v. LaSalle National Bank, supra, decided by this Court holds:

> . . . those opposing enforcement

> of a summons do bear the burden to disprove the actual existence of a valid civil tax determination or collection purpose by the Service..

The evidence in Getz' Case showed gross income of $33,393,58 for Getz and no (acceptable) 1040 Income Tax Return for the Year in question. See U.S. v. Porth, supra.

The I.R.S. failed in their sworn duty (26 U.S.C. 7801, 7214) to:

1. Prepare a Return pursuant to 26 U.S.C. 6020(b).

2. Assess any tax based on gross income and one standard deduction pursuant to 26 U.S.C. 6201, 6203; or

3. Lay any deficiency pursuant to 26 U.S.C. 6211, 6212 et seq.[1/]

The Respondent I.R.S. not only abandoned these available and mandatory avenues

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1/ See Muncaster v. C.I.R., T.C. Memo 1976-17, 35 TCM 61, P-H Mem T.C. §76017:

> In Raymond M. Hartman . . . we pointed out that Section 6211(2) does not required that a return be made either by taxpayer or the Commissioner before a deficiency . . . may be properly determined by the Commissioner.

(26 U.S.C. 7801, 7214) of civil tax determination but they actually slammed the doors on any kind of civil assessment, levy or collection activity (even as to fraud penalties) by the TC 914 Control Notice (ordered by the District Chief, C.I.D.) which froze all civil action from that day to this.

The Respondents abandoned any valid civil collection purpose prior to the Summon's issuance in direct disobedience to the mandate of this Court in U.S. v. LaSalle National Bank, supra.

4. Institutional Commitment to Prosecute:

After the I.R.S. had in its undisputed possession:

1. Evidence of all three probative elements for prosecution under 26 U. S. C. 7203; and,

2. Evidence of substantial tax liability, and the Laws to assert it (26 U.S.C. 6020(b), 6201, 6203, 6211, and 6212); and,

3. A final administrative deter-

that a successful criminal prosecution would have a significant "impact and/or deterrent effect" on taxpayer "Voluntary Compliance"; and,

After they branded Getz as an "illegal tax protestor" there was actually existant in the "institutional" sense a decision to prosecute Getz BEFORE the Summons issued.

Because these final administrative determinations were made before the Special Agent was ever assigned to the Case and before the Bank Summons ever issued (on July 12, 1979), and taking Judicial Notice that the actual recommendation for prosecution to the Justice Department was delayed until or after August 25, 1980, a major question before the Court is this:

> Was there a sufficient showing before the District Court to merit limited discovery going to prove the counter charge Getz made?
>
> . . . that Petitioner (I.R.S.)was

deliberately delaying the making of his criminal prosecution and seeking criminal discovery through use of the Civil Summons after an institutional commitment to prosecute was existant.

CONCLUSION

The significant impact of the mootness issue in Bank Summons Enforcement Cases can be well appreciated by this Court, especially in view of the Congressional Mandate for docket expediency. Not only is there a crying need to unclog the Courts on these Bank Summons Cases as to mootness, but the need is critical, also, for an expression by this Court to the end that all Circuits will carry out the Law uniformly.

Secondly, the novel issues raised by Petitioner directly going to interpretation of "Institutional Posture" and this Court's controlling case U. S. v. LaSalle, supra, are ripe for ajudication - especially since final disposition at this time will forestall endless and varying determinations on the

identical issues bound to be raised in every Circuit in the Land, unless this Court promptly lays down the Law.

PRAYER

WHEREFORE, The Court is due to grant the Petition here for issuance of the writ of Certiorari.

Respectfully submitted,

Glenn G. Getz, Petitioner
Attorney for Himself

May 21, 1981

Route 1, Box 608
Gordon, Georgia, 31031

Phone: 912/ 986-6275

APPENDIX

Exhibit	Description	Page
"A"	JUDGMENT of the U. S. Court of Appeals, Fifth Circuit, dismissing for "mootness".	1
"B"	ORDER of the U. S. Court of Appeals, Fifth Circuit, denying Rehearing.	3
"C"	ORDER of the U. S. Court of Appeals, Fifth Circuit, requesting Supplementary Briefs on "Mootness".	5
"D"	ORDER of the U. S. District Court, Middle District of Georgia, Macon Division, ordering enforcement of I.R.S. Summons (December 20, 1979) & JUDGMENT dismissing Getz' Counter Claim (January 7, 1980).	7
"E"	EXCERPTS from the Transcript of Oral Argument before the U. S. Court of Appeals, Fifth Circuit.	11

APPENDIX "A"

U. S. COURT OF APPEALS
F I L E D
MAR 5 1981
GILBERT F. GANUCHEAU
CLERK

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

UNIT B

DO NOT PUBLISH

No. 80-7048

UNITED STATES OF AMERICA and
C. HOWARD FARR, Special Agent,
Internal Revenue Service,

Plaintiffs-Appellees,

CITIZENS AND SOUTHERN BANK OF
MILLEDGEVILLE, Etc., ET AL.,

Defendants,

GLENN G. GETZ,

Intervenor-Appellant.

Appeal from the United States District Court
for the Middle District of Georgia

APPENDIX "A" - continued

Before FAY, KRAVITCH, and HATCHETT, Circuit Judges.

PER CURIAM:

Because this appeal is moot, it is DISMISSED, and remanded to the district court with instructions to vacate the enforcement order.

APPENDIX "B"

U.S. COURT OF APPEALS
F I L E D
APR 2 1981
GILBERT F. GANUCHEAU
CLERK

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

UNIT B

No. 80-7048

UNITED STATES OF AMERICA and C. HOWARD FARR, Special Agent Internal Revenue Service,

Plaintiffs-Appellees,

versus

CITIZENS AND SOUTHERN BANK OF MIILEDGEVILLE, Etc., ET AL.,

Defendants,

GLEEN G. GETZ,

Intervenor-Appellant.

Appeal from the United States District Court for the Middle District of Georgia

---

APPENDIX "B" - continued

ON PETITION FOR REHEARING

(April 27, 1981)

Before FAY, KRAVITCH, and HATCHETT, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied.

ENTERED FOR THE COURT:

s/ Joseph W. Hatchett
United States Circuit Judge

CLERK'S NOTE:
SEE RULE 41 FRAP AND LOCAL RULE 17 FOR STAY OF THE MANDATE

APPENDIX "C"

U.S COURT OF APPEALS
F I L E D
APR 24 1980
GILBERT F. GANUCHEAU
CLERK

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 80-7048

UNITED STATES OF AMERICA and C. HOWARD FARR, Special Agent Internal Revenue Service,

Plaintiffs-Appellees,

versus

CITIZENS AND SOUTHERN BANK OF MILLEDGEVILLE, Etc., ET AL.,

Defendants,

GLENN G. GETZ,

Intervenor-Appellant.

Appeal from the United States District Court for the Middle District of Georgia

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APPENDIX "C" - continued

Before GEE, RUBIN AND POLITZ, Circuit Judges.
BY THE COURT:

IT IS ORDERED that the motion of appellees to dismiss the appeal is carried with the case. The court requests supplemental briefs on the issues involved and on whether or not there is presently a "law of the circuit" on mootness of an appeal in such cases. Compare United States v. Carpenter, 425 F.2d 264 (5th Cir. 1970), and Baldridge v. United States, 406 F.2d 526 (5th Cir.1978) with FTC v. Gibson Products of San Antonio, Inc., 569 F.2d 900 (5th Cir. 1978). See also Barney v. United States, 568 F.2d 116 (8th Cir. 1978).

APPENDIX "D" - U. S. District Court

O R D E R

The questions raised here today are not new and are not novel. The Supreme Court has answered every one of them in the Donaldson and in the La Salle case. This Court is not vested with responsibility for doing anything other than determining whether or not these summons shall be enforced. That is the only question that is before the Court. This Court is not here to compel IRS to assess anybody for raxes at a particular time. Congress put that responsibility on them and this Court doesn't even have jurisdiction of it. Mr. and Mrs. Perkins couldn't come to the courthouse and say we owe $100,000 in taxes and want to pay it and IRS refuses to accept it. We just have nothing to do with that.

The Court has very carefully studied all of the items that you all have alluded to,

has very carefully read the Donaldson and the LaSalle cases, given consideration to the possible applicability of the Bank Records Act which Congress has now passed and has determined that act specifically has an exemption in it as to summons issued under the IRS procedure and therefore it does not apply. So it's not before the Court.

The Court finds as a matter of fact that IRS has proceeded on a criminal and civil in tandem investigation which yet remains incomplete. The Court finds as a matter of fact and as a matter of law that each and every one of the summons that are the subject matter of these two hearings is within the Internal Revenue Section, 26 USC 7602 I believe it is, which Congress passed permitting such summons to be issued. That is the extent of this Court's authority.

That being the Court's determination,

APPENDIX "D" - U. S. District Court Order

the Court orders that the summons will be enforced.

The Central Bank has prayed by motion that it not be required to respond until January 15th or thereafter. To give the taxpayers in this case an opportunity to contest this Court's ruling and to give the bank a fair opportunity to respond, the Court is going to order that each of these summons be enforced at whatever date the IRS selects after January 15th, 1980. They will not be enforced prior to that time. That will give you ample opportunity to seek a stay of the Court's order if you wish to.

SO ORDERED this 20th day of December, 1979.

s/ Wilbur D. Owens, Jr.
Wilbur D. Owens, Jr.
United States District Judge

APPENDIX "D" - continued

JUDGMENT

Pursuant to the Order of this Court which was dated and filed December 20, 1979, and for the reasons stated therein, each Internal Revenue Service Summons in the afore stated cases is enforced at whatever date the Internal Revenue Service selects after January 15, 1980. They will not be enforced prior to that time.

AND pursuant to the Order of this Court which was dated January 3, 1980 and filed January 4, 1980, and for the reasons stated therein, Intervenor's counterclaim in Civil Action No. 79-271-Mac is hereby dismissed.

This 7th day of January, 1980.

GIRARD W. HAWKINS, Clerk

s/ Helen F. Newberry

By: Helen F. Newberry
Deputy Clerk

APPENDIX "E"

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA, and C. HOWARD FARR, Special Agent, Internal Revenue Service,	)	
Appellee,	)	
vs.	)	Case No. 80-7048
CITIZENS & SOUTHERN BANK OF MILLEDGEVILLE, and, its President, JERRY M. McRee, and GLENN G. GETZ,	)	
Appellant and Intervenor.	)	

- - -

Proceedings before the United States Court of Appeals for the Fifth Circuit, at 56 Forsythe Street, Atlanta, Georgia, stenographically recorded by Loren P Hintz, Certified Court Reporter and Notary Public, on Thursday, February 5, 1981, commencing at approximately 11:10 a.m.

APPENDIX "E" - continued

(page 14)

[1] involved in this particular Hearing. I do not recall [2] any information about that. There was no Revenue [3] Agent, to my knowledge, involved in this case. And [4] he mentioned that this case was handled very rapidly. I agree with that.

[6] But, I am saying that the recommendation for prosecution was delayed, but that was not the case.

[9] Another thing I would like to mention [10] to the Court here is, why did the IRS and the Court wait until 5:00 o'clock on December 18th to inform [12] me and let me know they had put a Brief into the [13] Court, asking them to not give the Discovery I [14] requested at the very last moment? [15] Now, I requested Discovery on [16] December 3rd. Why didn't they do this on the 4th, [17] 5th, or 6th instead of the 18th? This is one of the [18] greatest errors that, I say, the lower Court made.

APPENDIX "E" - continued

They absolutely denied me a right to come into the courtroom to prove my claims. I can't prove anything standing here talking. I have to have someone who can show proof.

I would like to touch briefly on the question of mootness, also, your Honor. I am not going to cite a bunch of cases. I am not a lawyer, but Congress passed a law giving me the right to intervene in this case and the right to have an appeal.

I don't believe it was their intent to have that taken from me because of the action of a third party of whom I have absolutely no control.

I can't put a gun to their head and say, "Don't do it".

Of the cases that have been cited in here, in one case the gentleman did not even try to stop the banks from giving up the records. He gave in. He was not

a party to the whole case.

I have done everything legally that I knew how to do to stop the surrender of these records. [18] And I say, the case should not be moot.

If this Court so decides to make this moot, would you not have to, effectively, make every [18] Summons enforcement case made moot and the right to [19] have an appeal and to disagree?

I ask you to consider that, and ask you to reverse the lower Court's decision and have [22] the records returned and deny the right of use of [23] them.

THE COURT: Thank you, Mr. Getz. The Court is in recess under the usual Order.

AFFIDAVIT OF SERVICE

(Certificate of Service)

I certify that this date I have caused to be served 3 copies of this PETITION FOR WRIT OF CERTIORARI TO THE FIFTH CIRCUIT COURT OF APPEALS upon the Solicitor General of the United States at:

Department of Justice
Washington, D. C. 20530

and 1 copy of the same upon the U. S. Attorney for the Middle District of Georgia, Macon Division at:

U. S. Courthouse Building
Macon, Georgia

both by U. S. Postal Service, postage prepaid, from Montgomery, Alabama.

_____
Robert Muncaster

Subscribed and affirmed to
before me this ___day of
July 1981.

_____
Notary Public, State at Large

My commission expires on _____